

LABOUR DEPARTMENT

The 20th February, 1981

No. 9(1)81-8Lab/1287.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Roadways, Gurgaon:—

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
FARIDABAD

Reference No. 75 of 1979

between

SHRI ARJUN SINGH, WORKMAN AND
THE MANAGEMENT OF M/S
HARYANA ROADWAYS, GURGAON

Present:

Shri S. K. Goswami for the workman
Shri K. L. Piplani for the respondent
management.

AWARD

This reference No. 75 of 1979 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/GG/44-79/57219, dated 18th December, 1979 under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Arjun Singh, workman and the management of M/s Haryana Roadways, Gurgaon. The term of the reference was:—

Whether the termination of services of Shri Arjun Singh was justified and in order? If not, to what relief is he entitled?"

This case starts from the demand notice dated 31st July, 1979 served upon the management by the workman Shri Arjun Singh in which he has alleged that he was working as a driver with the respondent from 22nd May, 1972 and his services were illegally terminated by the management on 8th February, 1979. This action of the respondent-management he alleged to be against the principles of

natural and social justice. He has demanded in his demand notice that he should be reinstated forthwith with full back wages. Copy of this demand notice was sent through Labour-cum-Conciliation Officer, Gurgaon. The representative of the workman did not file any claim statement and prayed that the demand notice of the workman be treated as claim statement which was allowed. Written statement was filed by the respondent on 11th February, 1980 in which the respondents controverted the allegation of the workman claimant Shri Arjun Singh and contended that the workman was issued a charge sheet on 21st August, 1978 by the respondent which Arjun Singh, workman, replied and the reply was found unsatisfactory by the management and the Traffic Manager, Gurgaon of the Roadways was appointed as Enquiry Officer to hold domestic enquiry against the workman Shri Arjun Singh. The Enquiry Officer held the domestic enquiry against the workman Shri Arjun Singh, in the presence of the workman who participated in it till end and defended his case. On the conclusion of the enquiry the workman was found guilty of the charges, and a report was sent to the General Manager to that effect. On that the General Manager of the respondent roadways issued a show-cause notice to the workman which was also received and replied by the workman concerned. After this an opportunity of personal hearing was given to the workman by the General Manager of the respondent Roadways to explain why his services should not be terminated and thereafter his services were terminated on 8th February, 1979.

According to the written statement filed by the respondent they found the termination order of the workman quite in order, according to law and principles of natural justice. In the end the respondent prayed for the award to be given in the light of above circumstances. The representative of the workman prayed that he did not want to file any rejoinder and following issues were framed on 30th May 1980:—

- (1) Whether a proper and regular enquiry has been conducted by the management? If so, to what effect?

- (2) Whether the termination of the services of the workman is justified and in order? If not, to what relief is he entitled?

(3) Relief?

No other issue was prayed or pressed by either party and the case was fixed for 19th June, 1980 for evidence of the management. The management filed original enquiry file of the workman also on 30th May, 1980. On 11th August, 1980 the statement of first witness of the management-respondent was recorded after many adjournments. Then on 10th October, 1980, statement of another witness was recorded and the management closed its case. Then the case was fixed for recording of evidence of the workman on which date the workman himself appeared as his own witness and closed his case. The case was fixed for hearing of arguments and arguments were heard. My findings issuewise are as under:—

The following exhibits and statements of witnesses have been brought on the file during the pendency of the case.

Exhibit M-1 is charge-sheet, Exhibit M-1/1 is the Hindi translation of the charge-sheet; Exhibit M-3 is the appointment letter of the Enquiry Officer; Exhibit M-4 is the appointment of Traffic Manager as Enquiry Officer; Exhibit M-4/1 is the formal appointment of Traffic Manager as an enquiry officer; Exhibit M-5 is the letter of General Manager to the workman for personal hearing. After the report of enquiry was received by him. Exhibit M-6 is the termination order of the workman. Exhibit M-7 is statement of Chief Inspector of the Roadways before the enquiry officer. Exhibit M-8 is the report of the enquiry officer. Exhibit M-9 is show-cause notice given by the respondent to the workman claimant before termination. Exhibit M-10 is the reply of the show-cause notice. The respondent produced S/Shri Vijay Kumar its Record Keeper and B. S. Yadav (Traffic Manager) Enquiry Officer and MW-1 and MW-2 in its case. From the side of the workman he himself appeared as his own witness as WW-1 and the claimant workman closed his case. Exhibit W-1 is the list of witness in the criminal case pending against the workman.

ISSUE NO. 1:

This issue is about the vires of the enquiry. The charge against this workman are according to Exhibit M-1 and M-1/1 that on 24th July, 1978, he was driving bus No. HRC 7418 from Gurgaon to Chandigarh when at Delhi Faiz Road near Karol Bagh his bus hit against a truck which came from Rohtak road side and as a result of that the driver of the truck and a trader who was in the truck died. The truck was loaded with sheep some of them died, and some passengers got injuries who were given first aid and discharged. The workman Shri Arjun Singh the driver of the bus also received injuries and was admitted in a hospital in Delhi. The charges against him are that he drove the bus rashly and negligently away from the certified route and in this way the accident occurred. The enquiry was ordered to be conducted under C.S.R. and not under the Industrial Disputes Act as per Exhibit M-3 and Exhibit M-4. The workman during the enquiry has produced two witnesses in his support and made his own statement. These witnesses deposed that the accident occurred early in the morning at about 5.00 a.m. The traffic lights were not on and everybody was driving at his own will at that crossing. Shri Arjun Singh in his reply vehemently controverted the allegation and alleged that the accident occurred due to rash and negligent driving of the truck driver who was died at the spot and he was driving his bus most diligently and cautiously. This statement of Arjun Singh, workman, was corroborated by the two witnesses produced by the workman at the time of enquiry by the Traffic Manager. The management has also produced two witnesses in the enquiry. They are S/Shri Chaman Lal, Chief Inspector and Sultan Singh, Works Manager of the respondent roadways. Both of these witnesses are not eye witnesses of the occurrence. No eye witness has been examined during the enquiry by the enquiry officer. I find many lapses in the enquiry proceedings such as Exhibit M-3 and Exhibit M-4/1, the formal appointment letters of the enquiry officers, i.e., the Works Manager and Traffic Manager shows Shri Arjun Singh, workman claimant driver No. 343 to represent the

State in this enquiry against himself. I do not know how was Shri Arjun Singh, claimant workman, against whom the enquiry was being held was ordered to represent the prosecuting State in this case through Exhibit M-3 and M-4/1.

The other lapses I find in the enquiry which has also been challenged from the workman side is that the enquiry has been held under the vires of the C.S.R. and not under the Industrial Disputes Act, 1947. The enquiry has to be held under this Act only and none else. The witnesses examined are also not eye witnesses of the accident. I am left with no choice except to believe the version advanced by Shri Arjun Singh who has certainly been involved in the accident and was present on that day. According to Shri Arjun Singh the fault was of the truck driver and not of his own. His statement is supported by the witness. He has produced Shri Bhagwan Das and Hirdey Ram in the enquiry as his defence witness. They have supported the contention of the workman claimant Shri Arjun Singh. They deposed that the bus driver Shri Arjun Singh drove his bus at a mild speed which means cautiousness. Secondly the traffic lights were not on and it was 5.00 a.m. early in the morning which means there was some darkness and every body having free excess at his will on the road. Shri Arjun Singh has supplied a list viz., Exhibit W-1 which is the list of witnesses meant to be produced against him in the criminal case pending against him. I agree that the criminal case has been registered against Shri Arjun Singh, workman claimant in the original road police station under section 304-A (rash and negligent driving and committing homicide). I do not want to comment on the merits of that case. Only because the driver of the truck was killed, therefore, Shri Arjun Singh is guilty of the offence does not appeal to logic or natural justice. Secondly this is a field of the criminal court where the case against this workman is pending decision. From the side of the workman it has been argued that he is driver since 27th August, 1972 with clean record. He did not have any intention to kill any body. Moreover the offence is not an offence under moral terpitutes. The Enquiry Officer has nowhere stated that

he himself made spot inspection to know the actual facts of the case. I agree with the representative of the workman with his arguments mentioned above. It has also been a paper formality that the driver has been held guilty without having conducted the enquiry properly.

Since the criminal case is pending in the court against the workman Shri Arjun Singh, I think this enquiry should have been kept pending till the decision of that case. 1970 SLR-P. 29, 355 of our own High Court has been cited before me. Their Lordships also were pleased to hold in a similar case which supported the contention of the workman. From the side of the management it was argued that there is no bar for a departmental enquiry being conducted if a criminal case is pending against the driver. I agree but how could two punishments be put on the workman for the same offence. If he is found guilty in the criminal case he surely will be punished and penalised by that court. In these circumstances I feel that this enquiry could easily have been avoided and put off till the time the criminal case was decided by the judicial courts, where it was pending against the workman.

I feel that the workman has been deprived off of his natural right to defend himself in the criminal court where the case under section 304-A, I.P.C., was pending against him by terminating him, in this manner of holding enquiry. The workman should not have been doubly punished for his single act of omission and commission in the light of the above discussion I feel that enquiry has not been held properly and it was not in order and nor were the respondent justified in holding this enquiry pending decision of the criminal case against this workman claimant. I therefore, decide this issue in favour of the workman and against the respondents.

ISSUE NO. 2:

Since I have decided the issue No. 1 in favour of the workman and against the respondent and the respondent has made no application as required under the Industrial Disputes Act, to adduce additional evidence if the Issue No. 1 is decided against them. Therefore, I hold this

issue also against the respondent and in favour of the workman. The requirements of law have not been complied with by the respondent under the Industrial Disputes Act which were necessary. I hold that the termination of the services of the workman Shri Arjun Singh is not proper, justified and in order and is not based on the principles of natural justice. The workman Shri Arjun Singh is ordered to be reinstated forthwith with full back wages. This be read in answer to the reference.

The 21st January, 1981.

ISHWAR PRASAD CHAUDHRY.

Presiding Officer,

Labour Court, Haryana.

Faridabad.

Endorsement No. 198, dated 28th January, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

ISHWAR PRASAD CHAUDHRY.

Presiding Officer,

Labour Court, Haryana.

Faridabad.

No. 9(1)81-8Lab/1288.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Akash Theatre Ballabgarh:—

**IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,**

**LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 1 of 1980

between

**SHRI ITWARI LAL WORKMAN AND
THE MANAGEMENT OF M/S AKASH
THEATRE BALLABGARH**

Present:

Shri Bim Singh Yadav, along with workman.

Shri L. D. Sehgal, Manager of the respondent-management.

AWARD

This reference No. 1 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order

No. ID/FD/111/79/58425, dated 28th December, 1979 under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Itwari Lal, workman and the management of M/s Akash Theatre, Ballabgarh. The term of the reference was:—

Whether the termination of services of Shri Itwari Lal, was justified and in order? If not, to what relief is he entitled?

After receiving this reference notices were sent to both the parties, who appeared and filed their pleadings. On the pleadings of the parties issues were framed by my predecessor on 26th February, 1980. Evidence of the parties were also recorded, and after hearing of the arguments of the parties, the case was pending for sending the award, when on 30th December, 1980 both the parties appeared and moved an application that they had comprised the dispute and their statements be recorded. This application was allowed by the court and their statements were recorded. The representative of the workman stated that the workman had settled his dispute with the management. According to the settlement the management had paid Rs. 2,000 (Rs. Two thousands only) to the workman in full and final settlement of all the claims of the workman Shri Itwari Lal. Now the workman had no other claim including his right of reinstatement/re-employment. This statement of the representative of the workman was also agreed to by the representative of the management Shri L. D. Sehgal. He further stated that an amount of Rs. 2,000 had been paid in presence of the court, in full and final settlement of all the claims of the workman including right of reinstatement/re-employment. Now nothing remained due to the workman.

In the light of the above statement made by the parties, I hold that the demand raised by the workman against the management leading to this reference has been duly satisfied. There is now no dispute remains to be adjudicated between the parties. This be read in answer to this reference.

The 16th January, 1981.

ISHWAR PRASAD CHAUDHRY.

Presiding Officer,

Labour Court, Haryana,

Faridabad.

Endorsement No. 199, dated 28th January, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

ISHWAR PRASAD CHAUDHRY.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab/1292.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s CNA Exports, Private Ltd., 4-Industrial Estate, Gurgaon:—

**IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
FARIDABAD**

Reference No. 225 of 1980
between

**MISS KRISHNA KUMARI SETHI,
WORKWOMAN AND THE MANAGE-
MENT OF M/S CNA EXPORTS,
PRIVATE LTD., 4-INDUSTRIAL
ESTATE, GURGAON**

Present:

Shri Sharda Nand, for the workman.
Shri M. P. Gupta, for the respondent-
management.

AWARD

This reference No. 225 of 1980 has been referred to this court by the Hon'ble Governor of Haryana.—vide his order No. ID/GGN/65-79/20452, dated 30th April, 1980, under section 10(1)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Miss Krishna Kumari Sethi, workwoman and the management of M/s. CNA Exports, Private Ltd., 4, Industrial Estate, Gurgaon. The term of the reference was:—

Whether the termination of services of Miss Krishna Kumari Sethi was justified and in order? If not, to what relief is she entitled?

After receiving this reference notices were sent to both the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed:—

- (1) Whether the termination of the workwoman is legal and justified? If not, to what relief is she entitled?
- (2) Whether the workwoman is estopped with her own work and conduct in raising the claim?
- (3) Relief?

The facts of the case are that the workwoman joined the respondent company in pack division and was getting Rs. 185 per mensem and she was terminated on 2nd July, 1979, without assigning any reason according to her demand notice, Exhibit W-4. Exhibit W-3 is her statement of claim in which she states in addition to her contention of the demand notice that she had demanded minimum wages according to Minimum Wages Act and due to that demand she had been terminated because they used to pay her much less than the minimum wages, required under the Act. She further states in her statement of claim that personal officer Mr. Sharma had warned her if she demanded enhanced wages and instigated other workers she will not be allowed in service. The respondent in their written statement mentioned that the workman was appointed on 1st March, 1979 and not on 27th February, 1979 and her salary was Rs. 185 per mensem. According to the written statement filed by the respondent the claimant workwoman Miss Krishna Kumari Sethi absented from 1st July, 1979 and remained absent up to 14th July, 1979 and therefore her name was struck off from the rolls of the company from 14th July, 1979. They state in their written statement that the respondent had their own certified standing orders. As per those certified standing orders if a workman remained absent for more than ten days his name could be struck off. They controverted rest of the claim of the workwoman. The workwoman filed her rejoinder where she mentioned that she was employed through employment exchange, Gurgaon.

According to the contention of the rejoinder the workwoman remained absent from 2nd July, 1979 to 5th July 1980, when she had gone to attend her ailing brother who was admitted in the Holy Family Hospital, Delhi. There is no other allegation as such in the beginning by the workwoman claimant against the management for her termination. The parties lead their evidence and filed documents to prove their case.

From the side of the management one Shri Ram Avtar Sharma, Time Keeper of the respondent company appeared and made a statement on oath. He had brought the attendance register from January, 1979 to September, 1979. According to this register the claimant had been appointed as Tread Cutter from 1st March, 1979 at a salary of Rs. 185 per mensem and she was appointed on temporary basis. The admission and denial was also done on the request of the parties, and again evidence was recorded. Exhibit M-1 is the photo copy of the attendance card (Original of which was seen by the court and returned). According to this witness this workwoman Miss Krishna Kumari absented from 1st July, 1979 and remained absent till 14th July, 1979. On that day, i.e., 14th July, 1979 (after noon) the name of the workwoman was struck off from the rolls of the company. Exhibit M-2 and M-3 are the photo copies of the attendance register for the month of July, 1979 in which the name of the workwoman was entered at point "A" on Exhibit M-2 (Original of this document was seen and returned). This witness had brought the bonus register of the company and according to this register this workwoman had collected her bonus on 29th October, 1979. Exhibit M-4 is the photo copy of the receipt in which the name of workwoman was entered at point "A". Exhibit M-5 is a letter written by the management to the workwoman on 5th July 1979 for her absence. Exhibit M-6 is the photo copy of the despatch register in which this letter has been entered at Serial No. 1132. Exhibit M-7 is another letter written by the management to the workwoman on 16th July, 1979, the entry of which is Exhibit M-8 at Serial No. 1263 in the despatch register (Original was seen and returned by the court). The workwoman had been

informed through Exhibit M-7 about the striking off her name for her long absence. Exhibit M-9 is the appointment letter of the workwoman and signature of this workwoman has been identified by this witness at point "A" and "B".

The other witness produced by the management was Shri L. R. Lalwani, Personal Officer of the respondent. He stated that he issued the appointment letter of this workwoman claimant. Exhibit M-9 is the copy of appointment letter given to the workwoman. The time-keeper gets the signatures of the workwoman while giving appointment letter on the office copy. This witness identified the signatures of the workwoman because he had seen her reading and writing when she was employed there. Exhibit M-7 and M-5 were issued under his signatures. He corroborated the statement of MW-1 Shri Ram Avtar Sharma, time-keeper about the absence of the workwoman. Exhibit M-10 is the demand notice of the workwoman. He states that this workwoman had collected her bonus from the company. In his cross-examination he has stated that the workwoman collected her dues, i.e., bonus, etc., from company by (presenting herself in the company and the same was not sent to her house. He says that her services were terminated for long absence. After this witness the management closed its case.

The workwoman appeared as her own witness and after her statement she closed her case. She states that she was appointed on 26th February 1979, and joined her duty on 27th February, 1979 as Tread Cutter at a salary of Rs 185 per mensem. She was not given any appointment letter. In her statement she states that she took her ailing brother on 1st July, 1979 after doing her duty to Holy Family Hospital, Delhi and reported for duty on 4th July, 1979 when she was refused by the management. She mentioned a name of one Mr Subhash who also worked in the respondent company, who knows the facts of her brothers illness. According to her she was asked to sign the resignation letter which she refused. She states that she sent a registered letter on 4th August, 1979 to Mr. Lalwani the postal receipt of which

is Exhibit W-1. She further states that about a fortnight before her illegal termination one Shri Sharma, MW-1 came to her house in night time in dead drunk condition who was accompanied by another man of the factory but she did not know him by name. Both of them had lot of money with them. They tried to entice her to bad act which she declined and threatened to raise an alarm on this threat they ran away. While going MW-1 and the other man threatened her with dire consequences and her termination as an off shoot of that. Animousty because she had not agreed to their evil desire, was the reason but she had not uttered a word about this fact before recording of her evidence.

Arguments were heard. Before I take Issue No. 1 I take issue No. 2 first.

ISSUE NO. 2:

This issue was not contested by the respondent and therefore, this issue is decided against the respondent and in favour of the workwoman. The workwoman Miss Krishana Kumari Sethi is not estopped for raising this demand and her act is quite legal and right. She was a workwoman and could raise a demand for her termination.

ISSUE NO. 1:

This issue is about termination of the services of Miss Krishna Kumari Sethi, workman. I have heard the parties at length. The workwoman Krishna Kumari Sethi has taken different stands in her demand notice, claim statement and rejoinder. Moreover she totally changed the cause of her termination in her own statement when she appeared as her own witness and made the statement on oath. In the demand notice she says that she was terminated without assigning any reason whereas in her statement of claim she alleges that she was terminated because she had demanded minimum wages as per Minimum Wages Act. In her rejoinder she had still brought a fresh allegation that Shri Sharma, time-keeper, threatened her if she demanded enhanced wages as per Minimum Wages Act or encourage the workers to raise their demands for minimum wages, her services will be terminated. In her statement she made in this court as her solitary witness has

totally forgotten about these allegations and has brought up a new story that her termination was an off shoot at an act of MW-1 Shri Ram Avtar Sharma, time-keeper of the company who visited her house 15 days earlier before her actual termination along with another person and tried to entice her with their lure or money or indulge into illicit relation. I do not understand if this workwoman had been tried to be molested by MW-1 Shri Ram Avtar Sharma why she did not bring this matter to the employer's notice who certainly was not party to the alleged evil design of Shri Ram Avtar Sharma and his associate. According to the representative of the management this is an after thought and concoction to win the sympathy of this court. Had she not wanted to tell it to the management she could have told this story to her parents who I believe must have taken strong conception to this act on MW-1. Ram Avtar Sharma and his associate and done some thing if not a police case. Much could be done otherwise. For 15 days there was lull and this allegation to my mind is just a concoction. She has come in the witness-box after the evidence of the management was recorded and Shri Ram Avtar Sharma is a witness against her. This was argued from the management side that to disbelieve her statement of Shri Ram Avtar Sharma, MW-1 and finding no other way out the workwoman has come with the after thought statement. I at least find some force in the arguments of the representative of the management.

Moreover the attendance register, the bonus register, attendance card have been produced by MW-1 Shri Ram Avtar Sharma which fully corroborated with the statement made by him in the court on oath. A witness could not straightway be disbelieved because the other party has levelled serious allegation against him after his statement. This witness Shri Ram Avtar Sharma was put to a heavy cross-examination but not a single question has been put to him nor a merely suggestion given about the alleged illegal act committed by him. In these circumstances I am left with no other choice except to disbelieve the stand taken by workwoman in her statement. There is not bad blood or any animousty between

Shri Ram Avtar Sharma and the workwoman. Why should he depose against this workwoman. The absence has been proved for more than 10 days and as per standing order absence without information will lead to termination. I have tallied her signatures myself on Exhibit W-4 and they 100 per cent ally with each other. She admitted that she had collected bonus from the respondent company. In these circumstances I feel that the workman absented from duty for more than 10 days, i.e., 1st April, 1979 to 14th April, 1979 without assigning any reason to the respondent, therefore, her name was struck off from the rolls of the company as per vires of the certified standing orders. I therefore, hold this issue in favour of the management and against the workwoman. The termination of the workwoman is proper justified and in order and she is not entitled to any relief. No order as to costs. This be read in answer at the reference.

The 21st January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 200, dated 28th January, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab./1293.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of Secretary, Haryana State Electricity Board, Chandigarh.

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD.
Reference No. 385 of 1980.

between

SHRI INDER PAL, WORKMAN AND THE MANAGEMENT OF M/S SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH.

Present:—

Shri Inder Pal workman in person.
Shri S. S. Sarohi, for the respondent management.

AWARD

This reference No. 385 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/KNL/6-79/44190, dated 14th August, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Inder Pal and the management of M/s Secretary, Haryana State Electricity Board, Chandigarh. The term of the reference was:—

Whether the termination of services of Shri Inder Pal was justified and in order? If not to what relief is he entitled?

After receiving this reference notices were sent to the parties. The parties appeared, but on 15th December, 1980, the representative of the management made a statement in this court that the workman had been reinstated with continuity of back service and the intervening period of absence would be treated as leave of the kind due. He further stated that the workman had already been given the order of appointment and he would join his duty within 15 days from that day. This statement of the representative of the management was also agreed to by the workman Shri Inder Pal. He further stated that he would join his duty within 15 days from the receipt of the appointment order.

In the light of statements made by the parties, I hold that the demand raised by the workman against the management leading to this reference, has been duly settled. There is now no dispute remains

to be adjudicated between the parties. No order as to costs. This be read in answer to this reference.

The 27th January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,

Endorsement No. 201, dated 28th January, 1981.

Labour Court, Haryana, Faridabad.

Forwarded, (four copies), to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)81-8Lab./1294.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of Executive Engineer Kurukshetra Division, Haryana State Electricity Board, Kurukshetra.

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD.
Reference No. 407 of 1980

Between

MISS SHAKUNTLA DEVI, WORKMAN AND THE MANAGEMENT OF EXECUTIVE ENGINEER, KURUKSHETRA DIVISION, HARYANA STATE ELECTRICITY BOARD, KURUKSHETRA.

Present:—

Workman in person.

Shri S. S. Saroha, for the respondent management.

AWARD

This reference No. 407 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/111-79/45224, dated 22nd August, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between the

workman Miss. Shakuntla Devi and the management of Executive Engineer, Kurukshetra Division, Haryana State Electricity Board, Kurukshetra. The term of the reference was:—

Whether the termination of services of Miss Shakuntla Devi, was justified and in order? If not, to what relief is she entitled?

After receiving the reference notices were sent to the parties, who appeared on 29th October, 1980, and the management filed the written statement. Then the case was fixed for filing the rejoinder and framing of issues for 26th November, 1980. On 26th November, 1980, the rejoinder was not ready and the workman prayed for a date which was granted and the case was fixed for 15th December, 1980, for rejoinder and framing of issues. On that date of hearing the representative of the management made a statement at that the management had agreed to reinstate the workman on her old terms and conditions of services which were applicable at the time of her termination. The intervening period i.e., date of termination to the date of reinstatement would be treated as leaves of the kind due. He further stated that she should not be paid any back wages except leave salary admissible to her under rules. The management agreed to give the reinstatement order to the workman within 15 days and the workman could join her duty within 15 days from the date of receipt of order failing which the workman would have no right to ask for the relief of reinstatement. This statement of the representative of the management was also agreed to by the workman Miss. Shakuntla Devi. She further stated that she undertook to join her duty within 15 days from the receipt of the order as L.D.C. from the respondent.

In the light of above statement made by the parties, I hold that the demand raised by the workman against the management leaving to this reference has been duly settled. There is now no dispute remains to be adjudicated between the parties. No order as to costs. This be read in answer to this reference. The 27th January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endorsement No. 202, dated 28th January, 1981.

Forwarded, (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)81-8Lab./1295.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Venus Industries I-C 56, N.I.T. Faridabad.

IN THE COURT OF SHRI ISHWAR PRASAD CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD.

Reference No. 506 of 1980
between

SHRI HOSILA PARSHAD, WORKMAN
AND THE MANAGEMENT OF M/S
VENUS INDUSTRIES, I-C, 56, NIT,
FARIDABAD.

Present:—

None, for the workman.

Shri R. C. Sharma, for the management.

AWARD

This reference No. 506 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/118-80/54976, dated 27th October, 1980, under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Hosila Parshad workman and the management of M/s Venus Industries, I-C, 56, NIT, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Hosila Parshad was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties for 4th

December, 1980. On that day, the representative of the management was present but none was present from the side of the workman, when the service of the notice had already been effected on the workman. The case was called thrice and this court proceeded ex parte against the workman. Then the case was fixed for the ex parte evidence of the management for 16th January, 1981.

On 16th January, 1981 the management examined Shri R. C. Sharma as MW-1. He stated in this court that the workman had settled his disputes with the management and filed a copy of settlement under section 12(3) of the Industrial Disputes Act, 1947 which is Exhibit M-1. It is just and fair. He further stated that according to the settlement, the workman had already taken his full and final accounts of his claim, dues and dispute and copy of the same is Ex. M-2. He also stated that the respondent Company had already closed.

In the above circumstances the un-rebutted statement of the management is relied upon and it is held that the workman had settled his dispute with the management and had also received a sum of Rs. 375 in full and final settlement of his claim, dues and dispute which is Ex. M-2. There is now no dispute remains to be adjudicated between the parties. Therefore, I give my award accordingly. He is not entitled to any relief. So this award is in answer of this reference.

The 21st January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,

Labour Court, Haryana, Faridabad.

Endorsement No. 203, dated 28th January, 1981.

Forwarded, (four copies), to the Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)81-8Lab/1296.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947. (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Venus Industries I.C. 56, N.I.T. Faridabad.

IN THE COURT OF
SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT,
HARYANA, FARIDABAD.

Reference No. 507 of 1980

between

SHRI DEO CHAND RAM WORKMAN
AND THE MANAGEMENT OF M/s.
VENUS INDUSTRIES, I-C-56, NIT,
FARIDABAD.

Present:

None for the Workman.

Shri R. C. Sharma, for the Management.

AWARD

This reference No. 507 of 1980 has been referred to this court by the Hon'ble Governor of Haryana.—*vide* his order No. ID/FD/118-80/54894 dated 27th October, 1980 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Deo Chand Ram workman and the management of M/s Venus Industries, I-C-56 N.I.T., Faridabad. The term of the reference was:—

Whether the termination of services of Shri Deo Chand Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties for 4th December, 1980. On that day, the representative of the management was present but neither the workman nor his authorised representative was present, when the service of the notice had already been effected on the workman. The case was called thrice and this court proceeded *ex parte* against the workman. Then the case was fixed for the *ex parte* evidence of the management for 16th January, 1981.

On 16th January, 1981 the management examined Shri R. C. Sharma as MW-1. He stated in this court that the workman had settled his dispute with the management and also received his full and final accounts with the management. He filed a copy of settlement which is Exhibit M-1. He also filed a copy of his final accounts which is Exhibit M-2. He further stated that the respondent Company had already closed.

In the above circumstances the un-rebutted statement of the management is relied upon and I hold that the workman had settled his disputes with the management. I, therefore, give my award that there is no dispute between the parties at present. He is not entitled to any relief. So this award is in answer of this reference.

The 21st January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,

Labour Court, Haryana, Faridabad.

Endorsement No 204, dated the 28th January, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

ISHWAR PRASAD CHAUDHRY
Presiding Officer,

Labour Court, Haryana, Faridabad

No. 9(1)81-8Lab/1297.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Delhi Faridabad Textiles Pvt. Ltd., 20/6, Mathura Road, Faridabad.

IN THE COURT OF
SHRI ISHWAR PRASAD CHAUDHRY,
PRESIDING OFFICER,
LABOUR COURT,
HARYANA, FARIDABAD.

Reference No. 509 of 1980
between

SHRI RAM PALAT WORKMAN AND
THE MANAGEMENT OF M/S. DELHI
FARIDABAD TEXTILES PVT. LTD.,
20/6, MATHURA ROAD, FARIDABAD.
Present:

Shri Adarsh Kishore Sharma, for the
workman.

Shri Nathu Ram Sharma, for the
Management.

AWARD

This reference No. 509 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/116-80/54918, dated 27th October, 1980 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Ram Palat workman and the management of M/s. Delhi Faridabad Textiles Pvt. Ltd., 20/6, Mathura Road, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Ram Palat was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were sent to the parties. The parties appeared and filed their pleadings. But on 16th January, 1981 the date fixed in the case, the representative for the workman stated that he has no instructions from the workman and he did not want to proceed further in the case. I, therefore, give my award that there is no dispute between the parties at present as the representative for the workman did not want to proceed further with the case. The 21st January, 1981.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,

Labour Court, Haryana, Faridabad.

Endorsement No. 205, dated the 28th January, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

ISHWAR PRASAD CHAUDHRY,
Presiding Officer,

Labour Court, Haryana, Faridabad

No. 9(1)81-8Lab/1415.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s The Panipat Cooperative Sugar Mills, Panipat.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK.

Reference No. 104 of 77
between

SHRI KISHAN CHAND, WORKMAN
AND THE MANAGEMENT OF M/S
THE PANIPAT COOP. SUGAR MILLS,
PANIPAT.

Present:—

Shri Gian Chand, for the workman.

Shri R. S. Malik, for the manage-
ment.

AWARD

This reference No. 104 of 77 has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/KNL/109-U-77/39436, dated 9th September, 1977 under section 10(1)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Kishan Chand, workman and the management of M/s The Panipat Coop. Sugar Mills, Panipat. The term of the reference was:—

Whether the termination of Shri Kishan Chand was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties who appeared in response to the same on 31st October, 1977 and the case was adjourned to 8th December, 1977 for filing of the written statement. The workman representatives objection on the appearance of Shri R. S. Malik an advocate who was representing the management was over-ruled and decided in favour of the management after record-

ing of the statement of Shri R. S. Malik and after hearing the arguments on both the sides by my learned predecessor on 7th February, 1978 in favour of the management. The management filed the written statement and the workman filed the rejoinder on 10th March, 1978. The only issue as per dispute referred to the court by the appropriate government arose on the pleadings of the parties. The management was asked to adduce their evidence first.

Shri Khushi Ram was examined as the sole management witness who deposed that he held the enquiry in the case of Shri Kishan Chand. He had given opportunity to the workman to cross-examine the witnesses of the management and also for leading his defence. Shri Gian Chand was assisting the workman in the domestic enquiry. He produced the copies of enquiry proceedings which are Ex. M-1. He also produced the copies of the finding which is marked Ex. M-2. In his cross-examination he has admitted that he has not seen the standing orders and he could not say whether Shri Khoob Ram was a spot witness. He did not summon Shri Khoob Ram on his own accord as the workman did not wish to produce him. He admitted that he was the Chief Security Officer and he also gave out that he had held several enquiries in the factory as well as in the police department. The authorised representative of the management tendered in evidence documents which are Ex. M-3 to Ex. M-8.

Shri Kishan Chand appeared as his own witness who deposed that he was suspended on 24th January, 1976 and charge-sheeted on 29th January, 1976 to which he replied on 30th January, 1976. The management appointed Shri Khushi Ram, Security Officer as the enquiry officer who did not hold the enquiry properly in accordance with natural justice. He produced Khoob Ram, who was eye witness of the occurrence but the enquiry officer did not record his statement. The enquiry officer also did not allow him to re-examine his witnesses nor he allowed to cross-examine the witnesses by his representative Shri Gian Chand. The enquiry officer did not give sufficient time

to defend his case. In his cross-examination he has admitted that Gian Chand was present in the proceedings but the enquiry officer did not allow him to speak. He further stated that Shri Gian Chand did not put any question to the witnesses. He admitted as correct that his and Gian Chand's signatures were obtained on each day's proceedings. Shri Khoob Ram an employee of the mills was prevented to appear before the enquiry officer but opportunity was given to him. Shri Gian Chand did not make any statement in his presence for giving up Khoob Ram. He did not complain against the enquiry officer. At present he was around 55 years.

On his notice of demand which was also to be treated as his statement of claim the workman has stated that the enquiry proceedings were vitiated on several grounds. Firstly that no eye witness was examined as witness in the enquiry proceedings. Secondly the producing register was not produced despite his request to produce the same. Thirdly the management witnesses have supported his contention that he had not disobeyed any order. The findings of the enquiry officer were not based on actual facts and the dismissal order passed was not justified as the same was based on improper enquiry and no past record of service for a period of 16 years was considered while punishing the workman which was mandatory under the certified standing orders.

On the other hand the management in their written statement has alleged that the workman was dismissed after a regular enquiry during which the workman was afforded sufficient opportunity to cross-examination or leading his defence. After receipt of the enquiry report show-cause notice was issued and after considering his reply thereto his services were dismissed. The dismissal order was justified and in order and in accordance with law.

I heard the learned representative of both the side, who also filed written arguments and after going through the evidence on record I decide the issue as under:—

From the enquiry proceedings Ex. M-1 it is evident that the workman fully

participated in the proceedings along with the representative Shri Gian Chand who put their signature on each day's proceedings. The workman cross-examined the management witnesses and he was also given the full opportunity to lead his defence. From the proceedings, dated 21st June, 1976, it is clear that the case of the workman was closed on the statement of his representative Shri Gian Chand. From the enquiry report it is also clear that the enquiry officer has considered the evidence produced before him on both sides and based his findings on the same and found the charges proved against the workman. The shortcomings in the enquiry proceedings as were brought out by the workman in his demand notice are proved otherwise than alleged by him. The drawbacks pointed out by him that no eye-witness was examined during the course of enquiry was belied as he himself wanted to produce Shri Khoob Ram in his defence whom he claimed to be an eye-witness but who was given up by him and his authorised representative Shri Gian Chand closed the case of the workman without getting his statement recorded after obtaining two-three adjournments for the same. Even otherwise it is also doubtful from the statement of the workman recorded in the course of enquiry if there was any eye-witness to the occurrence as he has in his cross-examination given out that there was none present when Shri Ram Singh, centrifugal mate happened to talk to him for doing the work under dispute. The statement given by the workman before my learned predecessor is quite different and contrary to what he was given before the enquiry officer during the course of enquiry which appears to have been made only to bring out the discrepancies in the enquiry proceedings in order to prove it as vitiated. In his demand notice he has stated that the production register for the disputed period was not produced by the management in spite of his requests has not been mentioned in his statement recorded before my learned predecessor nor there is anything recorded in this behalf in the enquiry file nor in his statement before the enquiry officer. This thing was brought to his notice. So all the allegations levelled by the workman against the enquiry being faulty are not proved in

his favour nor he led any evidence to that effect.

The workman representative has argued that the management order of dismissal was passed without considering the past record of service for 16 years which was mandatory as per the clause M, sub-clause (5) of the certified standing order which reads as under:—

"In awarding punishment under this Standing Order, the General Manager or any other person authorised by him in writing in this behalf shall take into account the gravity of the misconduct and the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist.

But this is of no avail to the workman as the same has to be considered only in cases when a more severe punishment was to be awarded but in the present case when the workman was to be awarded the extreme punishment of dismissal then there was no need of considering the past record. As the charges on which the workman was dismissed constituted grave misconduct under clause M sub-clause 1(a) and which were proved on the basis of the findings of the enquiry officer and the enquiry being considered proper, just and in accordance with the principles of natural justice. The dismissal order is therefore justified and in order and the workman is not entitled to any relief. The reference is answered and returned in the above terms.

Dated 23rd January, 1981

BANWARI LAL DALAL,
Presiding Officer.

Labour Court, Haryana, Rohtak.
Endorsement No. 228, dated 2nd February, 1981.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer.

Labour Court, Haryana, Rohtak.
H. L. GUGNANI,
Commissioner and Secretary to
Government, Haryana,
Labour and Employment Department